



SOVIET LEGAL REFORM (387S)

Materials

VOLUME II
Spring term 1991

Karen Knop
Faculty of Law
University of Toronto

Prepared with the assistance of Ann Kerwin
December 1990

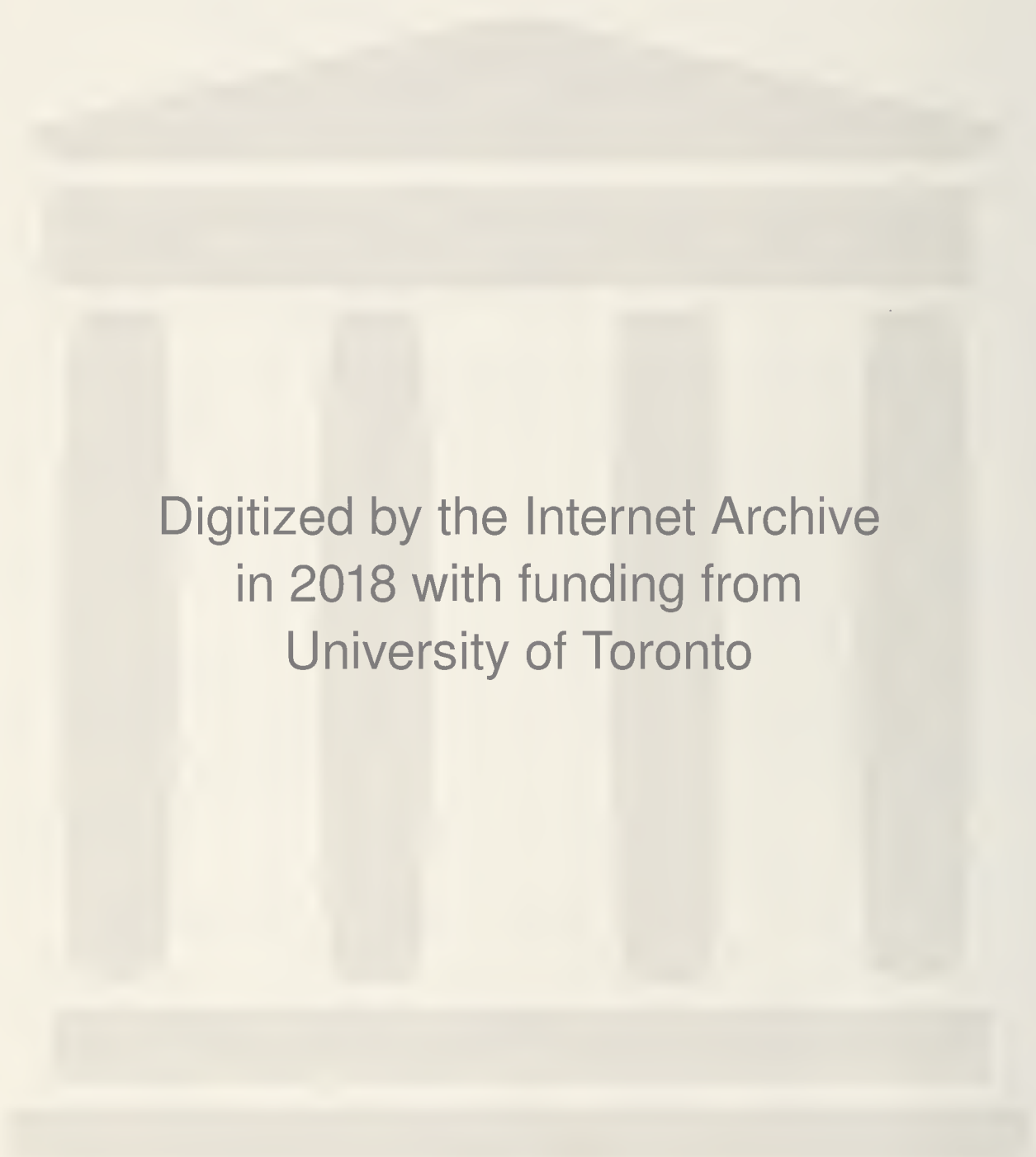
SOVIET LEGAL REFORM (387S)

Materials

VOLUME II
Spring term 1991

Karen Knop
Faculty of Law
University of Toronto

Prepared with the assistance of Ann Kerwin
December 1990



Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

<https://archive.org/details/sovietlegalrefor02knop>

SOVIET LEGAL REFORM

TABLE OF CONTENTS

VOLUME II

V	ADMINISTRATION OF LEGALITY	PAGE
A	<u>Institutional Overview</u>	
	Butler, <u>Soviet Law</u> , ch.7.....1	
	See Part VII of the current USSR Constitution (Appendix A of Vol. I)	
B	<u>Courts</u>	
1	<u>Organisation of the Courts</u>	
	Chart, Hazard, Butler & Maggs, <u>The Soviet Legal System: The Law in the 1980's</u>25	
	Shelley, "The Structure and Function of the Soviet Courts".....26	
	Solomon, "The USSR Supreme Court: History, Role and Future Prospects".....36	
	"Fundamental Principles of Legislation of the USSR and the Union Republics on Court Structure in the USSR" (Available only in Russian: 1989 Ved. Nar. Dep. SSSR & Verkh. Sov. SSSR (No. 23), item 441)	
2	<u>Judicial Independence</u>	
a	<u>Before Gorbachev</u>	
	See Part IV(A)(c) Ginsburgs, "The Soviet Judicial Elite: Is It?".....45	
	Arts. 155, 157 of the 1977 USSR Constitution (since amended).....55	
b	<u>Under Gorbachev</u>	
	See Arts. 155, 157 of the current USSR Constitution (Appendix A of Vol. I) Quigley, "Law Reform and the Soviet Courts", pp.66-75.....56	
	Smolentsev, "Toward a Rule-of-Law State: What is the Third Branch to Be?".....61	

<u>Izvestiia</u> , "Pass the sentence- get an apartment!".....	64
--	----

USSR Law "On the Status of Judges in the USSR"
 (Available only in Russian: 1989 Ved. Nar. Dep. SSSR & Verkh. Sov. SSSR (No. 9), item 223)
 USSR Law "On Responsibility for Disrespect to a Court"
 (Available only in Russian: 1989 Ved. Nar. Dep. SSSR & Verkh. Sov. SSSR (No. 22), item 418)

VI SOURCES OF LAW

A Overview

Glendon, Gordon & Osakwe, <u>Comparative Legal Traditions</u>	67
---	----

B Constitution

See current USSR Constitution (Appendix A of Vol. I) Ginsburgs, "Dictatorship of the Proletariat Versus the All- People's State: Constitutional Contrasts".....	77
Human Rights to be covered in Part XIII Constitutional Review to be covered in Part VII (B) (1)	

C Legislation

Foster-Simons, "Towards a More Perfect Union? The 'Restructuring' of Soviet Legislation".....	87
<u>Meeting Report, Kennan Institute for Advanced Russian Studies</u> , "Glasnost' Struggles: An Insider's Account".....	109
<u>Moscow News</u> , "Still Trying to Influence the Law-Makers Are Those Who Should Implement the Laws. The Discussions Backstage Are Quite Often More Significant Than What Is Done Openly".....	110

D Sub-Legislative Acts

van den Berg, "Joint Party and Government Decrees in the USSR and Other Socialist Countries".....	111
Huskey, "Government Rulemaking as a Break on	

Perestroika".....	125
-------------------	-----

E "Instructive Law" and "Informal Rules"

Neznansky, <u>The Prosecution of Economic Crimes in the USSR 1954-1984</u>	133
--	-----

VII JUDICIAL REVIEW

A Before Gorbachev

See Art. 58 of the current USSR Constitution (Appendix A of Vol. 1) Barry, "Administrative Justice and Judicial Review in Soviet Administrative Law", pp.246-263.....	141
---	-----

B Under Gorbachev

1 Constitutional Review

a Committee of Constitutional Supervision

See art. 124 of the current USSR Constitution (Appendix A of Vol. I) USSR Law "On Constitutional Oversight in the USSR".....	150
Hausmaninger, "The Committee of Constitutional Supervision of the USSR", excerpts.....	156
Presidential Decree "On Regulating the Holding of Mass Events in Moscow Within the Sadovye Ring".....	163
<u>TASS</u> , "'Unconstitutional' Gorbachev Decree Suspended".....	164
USSR Supreme Soviet Presidium Resolution on Parallel Demonstrations and Rallies in Moscow on November 7.....	165
<u>TASS</u> , "Moscow Approves National Day Parallel Rallies".....	166

b Shape of Things to Come: Constitutional Court?

Draft Union Treaty, art. 16.....	167
----------------------------------	-----

2 Review of Administrative Acts

USSR Law "On the Procedure for Legal Appeal Against Unlawful Acts by Officials, Infringing on the Rights of Citizens"(1987).....	168
--	-----

Amendments (Available only in Russian: 1989
Ved. Nar. Dep. SSSR, (No.9), item 41a)

Toward a Rule of Law: Soviet Legal Reform and
Perestroika.....169

VIII LEGAL IMPACT OF ECONOMIC REFORM

A Before Gorbachev

Ioffe, "Law and Economy in the USSR".....181

B Under Gorbachev

1 Problems

N.Y. Times, "On the Trail of the Missing
Bread".....199

N.Y. Times, "Economists Warn Gorbachev
About Paralysis".....202

N.Y. Times, "Soviet Lawmen vs. the Black
Market".....203

2 Business Associations

a Law on Cooperatives

M. Lindsay, "Summary of the Law on
Cooperatives".....204

Jones & Moskoff, "New Cooperatives in the
USSR".....214

USSR Law on Cooperatives
(A translation of the law is found in 28
I.L.M. 719 (1989). A translation of
amendments in found in Daily Report:
Soviet Union (FBIS) #134 (12 July 1990)
at 42.)

b Law on State Enterprises

Ericson, "The New Enterprise Law".....227

USSR Law "On State Enterprise"
(A translation of the unamended law is
found in Daily Report: Soviet Union
(FBIS) 6 July 1989)

c Company Law

USSR Law "On Enterprises".....	235
"Joint Stock Companies a la Russe?".....	245a
Hober, "Soviet Company law-- Quo Vadis?".....	246
Regulations on Joint Stock Companies (Available only in Russian: <u>Ekonomika i Zhizn'</u> , #27 (July 1990) p.14.).	

d Resolution on Small Enterprises

USSR Government Adopts Resolution on Small Businesses.....	248
"Measures Pertaining to the Formation and Development of Small Businesses, 8 August 1990.....	249

3 Effect on Contract Law

Zweigert & Kotz, <u>Introduction to Comparative Law</u>	253
Klishin, "Economic Reform and Contract Law in the USSR".....	260

4 Effect on Property Law

Zweigert & Kotz, <u>Introduction to Comparative Law</u>	266
Art.s 10-13 of the 1977 USSR Constitution (since amended).....	271
Compare these with Art.s 10-13 of the current Constitution.	
USSR Law "On Property in the USSR".....	272
Fundamentals of Legislation of the USSR and the Union Republics on Land.....	277
"Fundamental Principles of USSR and Union Republic Legislation" (Legislation "On Leasing").....	288

IX REFORM OF FOREIGN TRADE

Hewett, "The Foreign Economic Factor in Perestroika"....	296
Hober, <u>Joint Ventures in the Soviet Union</u>	304
Joint venture decrees.....	396
Presidential Decree "On Foreign Investments".....	426

